

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ABBEY HOTEL ACQUISITION, LLC,	:	Civil Action No. 1:21-cv-03506
SETAI HOTEL ACQUISITION LLC, SETAI	:	
RESORT & RESIDENCE CONDOMINIUM	:	Motion Sequence #1
ASSOCIATION, INC, and SETAI	:	
VALET SERVICES, LLC,	:	AFFIRMATION IN
	:	OPPOSITION
Plaintiffs,	:	TO DEFENDANT’S
	:	MOTION TO DISMISS
-against-	:	<u>THE COMPLAINT</u>
	:	
NATIONAL SURETY CORPORATION,	:	
	:	
Defendant.	:	
	:	

Joshua L. Mallin, Esq., an attorney duly licensed and admitted to practice law before the Courts of the State of New York hereby affirms, under penalty of perjury, the following:

1. I am a Partner with the law firm of Weg and Myers, P.C., attorneys for Plaintiffs Abbey Hotel Acquisition, LLC, Setai Hotel Acquisition, LLC, Setai Resort and Residence Condominium Association Inc. and Setai Valet Services, LLC (hereinafter collectively “Plaintiffs”), and as such am fully familiar with the facts and circumstances attendant herein.

2. This Affirmation is respectfully submitted in opposition to Defendant’s motion pursuant to Rule 12 of the Federal Rules of Procedure, seeking to dismiss Plaintiffs’ Complaint for the purported failure to state a cause of action.

3. In connection with this matter, Plaintiffs consulted with and retained Dr. Michael A. Sulzinski (Dr. Sulzinski”) to offer an expert opinion as to the characteristics of Covid-19 and its ability to cause physical loss or damage.

4. Plaintiffs relied on Dr. Sulzinski's opinions and conclusions regarding the characteristics of Covid-19 and its ability to cause physical loss or damage. Dr. Sulzinski's analysis, which is now embodied in his expert report, ultimately served as a basis for Plaintiffs' pleadings herein.

5. An Affidavit of Dr. Michael A. Sulzinski attaching his report is being filed herein, together with Plaintiffs' Memorandum of Law in opposition to Defendant's Motion to Dismiss.

6. In connection with this matter, Plaintiffs' retained Dr. Alaksandr Aravkin ("Dr. Aravkin") to consult regarding the prevalence of Covid-19 in Miami-Dade County in March 2020, based on methodology and statistical analysis used to estimate the prevalence of infectious cases of Covid-19.

7. Plaintiffs relied on Dr. Aravkin's conclusions regarding the prevalence of Covid-19 in Miami-Dade County in March 2020. Dr. Aravkin's analysis, which is now embodied in his expert report, ultimately served as part of the basis for Plaintiffs' pleadings herein.

8. An affidavit of Dr. Alaksandr Aravkin attaching his report is being filed herein, together with Plaintiffs' Memorandum of Law in opposition to Defendant's Motion to Dismiss.

9. A true and accurate copy of the insurance policy issued by Defendant to Plaintiffs that is the subject of this litigation (the "Subject Policy") is annexed hereto as "**Exhibit A**".

Dated: New York, New York
July 23, 2021

Respectfully submitted,

WEG AND MYERS, P.C.
Attorneys for Plaintiffs

By: /s/Joshua L. Mallin
Joshua L. Mallin, Esq. (JM0474)

800 Westchester Ave., Suite N-513
Ryebrook, New York 10573
(212) 227-4210